

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**MARC GRANO as personal representative  
of the WRONGFUL DEATH ESTATE  
OF JONATHAN ANDREW GARCIA  
and a Next Friend to J.O.G., A.S.R., An.J.G  
and Ar.J.G**

**Plaintiff,**

**v.**

**Case No. 1:20-cv-00147-PJK-KK**

**STATE OF NEW MEXICO, GREGG  
MARCANTEL, New Mexico Secretary of  
Corrections, DAVID JABLONSKI, New  
Mexico Secretary of Corrections,  
CLARENCE OLIVAS, Deputy Warden  
Of Penitentiary of New Mexico, BRIAN  
LUCERO, Corrections Officer, FNU  
MARTINEZ, Corrections Officer, FNU  
BACA, Captain, Corrections Officer, FNU  
WELLS, Sergeant, Corrections Officer, and  
JOHN DOES 1 through 5, employees,  
staff, agents of Penitentiary of New Mexico,**

**Defendants.**

**DEFENDANTS' PETITION FOR ATTORNEY'S FEES**

COME NOW, Defendants State of New Mexico, Gregg Marcantel, New Mexico Secretary of Corrections; David Jablonski, New Mexico Secretary of Corrections; Clarence Olivas, Deputy Warden of Penitentiary of New Mexico; Brian Lucero, Corrections Officers; FNU Martinez, Corrections Officer; FNU Baca, Corrections Officer; FNU Wells, Sgt. Corrections Officer; and John Does 1 through 5, employees, staff, agents of Penitentiary of New Mexico, by and through its counsel of record, Garcia Law Group, LLC (Bryan C. Garcia, Meghan S. Nicholson, and Rodney L. Gabaldon) and pursuant to Rule 37(a)(5)(A) FRCP hereby submits its *Petition for Attorney fees*, and in support of which states:

1. Plaintiff filed suit in this Court on February 20, 2020, alleging constitutional violations by Defendants. *See* Doc. 3.
2. After granting several extensions to the discovery deadlines in this matter, the Court informed the parties no further extensions would be granted. *See* Docs. 46, 70, 82, 91.
3. Defendants filed a Motion to Compel regarding several deficiencies in Plaintiff's discovery responses on March 8, 2022. *See* Doc. 102. The Motion addressed: 1) Plaintiff's failure to verify or file a certificate of service for his responses to the first set of discovery requests, 2) Plaintiff's failure to respond whatsoever to Defendants Second Set of Discovery Requests, sent on December 17, 2021 [Doc. 87], 3) Plaintiff's failure to supply dates of availability for several fact witnesses related to the Decedent, and 4) Plaintiff's failure to supply dates of availability for his two disclosed expert witnesses. *Id.*
4. Plaintiff's counsel requested an extension to the deadline to respond to Defendants' Motion to Compel, which was granted. *See* Doc. 105. The extension permitted Plaintiff to file his Response no later than March 25, 2022. *Id.*
5. Plaintiff did not file a Response to the Motion to Compel.
6. On April 12, 2022, the Court held a hearing on Plaintiff's and Defendants' respective Motions to Compel.
7. The Court granted Defendants' Motion to Compel arguments 1, 2, and 4, granting everything requested except for dates of availability for the fact witnesses, as fact witness discovery has closed. *See* Doc 119. The Order granting the Defendants' Motion also instructed Defendants to submit this Fee Petition, with a reduction for the portion of the motion regarding the fact witnesses depositions. *Id.*

8. Attached as Exhibit 1 to this filing is the Attorney Fee Affidavit showing a breakdown of Defense counsel's hours on the tasks necessary to complete the Motion to Compel, excluding the time spent on the request for the fact witnesses depositions.
9. Therefore, pursuant to the Order granting their Motion to Compel and Rule 37(a)(5)(A) FRCP, Defendants' attorneys are requesting a fee of \$658.12 plus gross receipts tax at a rate of 7.875%, amounting to \$51.83, for a final total of \$709.95.
10. Defendants are willing to defer payment of these fees until the resolution of this matter.

Respectfully submitted:

**GARCIA LAW GROUP, LLC**

/s/ Rodney Gabaldon

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RODNEY L. GABALDON

BRYAN C. GARCIA

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**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the 22<sup>nd</sup> day of April, 2022, a true and correct copy of the foregoing was electronically filed with the Clerk of the Court using CM/ECF system and has been served on Plaintiff, pursuant to Federal Rules of Civil Procedure as follows:

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BY: //s// Rodney Gabaldón  
Rodney Gabaldón